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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,293	02/12/2004	Carl Kaoru Sakamoto	700.002US01	5279

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EXAMINER

KASZTEJNA, MATTHEW JOHN

ART UNIT	PAPER NUMBER
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3739

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/777,293

Applicant(s)

SAKAMOTO, CARL KAORU

Examiner

Matthew J. Kasztejna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 27, 2006 has been entered.

Notice of Amendment

In response to the amendment filed on September 15, 2006, amended claims 1, 10, 22 and 28 are acknowledged. The current rejections of the claims *stand*. The following new and reiterated grounds of rejection are set forth:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,623,425 to Cartledge et al. in view of U.S. Patent No. 6,095,972 to Sakamoto.

In regards to claims 1-3, 13, 18, 20-25 and 27-31, Cartledge et al. discloses a laryngoscope blade comprising: a main blade portion 20 having a posterior surface, a

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distal end and proximal end, the main blade portion being relatively straight between the distal end and the proximal end; a blade tip extending from the distal end of the main blade portion, the blade tip being at a select angle with relation to the posterior surface of the main blade portion (see Fig. 5); a first tongue displacement plate coupled to the main blade portion along a length of the blade; a second tongue displacement plate extending from the first tongue displacement plate in a direction that is away from the main blade portion (see Fig. 7), wherein the second tongue displacement plate and the first tongue displacement plate are adapted to work together to displace a patient's tongue during use of the laryngoscope, the second tongue displacement plate having at least one rounded corner; and a blade base coupled to the proximal end of the blade (see Figs. 4-5). Cartledge et al. is silent with respect to wherein the blade tip having a width that is flared wider in a first direction than a width of the main blade portion.

Sakamoto teaches of an analogous laryngoscope having a blade 10 with a main blade portion having a posterior surface, a distal end and a proximal end and a blade tip 12 extending from the distal end of the main blade portion (see Figure 2). Figures 2, 7 and 8 show that the blade tip 12 is flared wider in a first direction than a width of the main blade portion and can be positioned at a select, obtuse angle with respect to the posterior surface of the main blade portion (see Figure 19 and col. 5, lines 15-25). It would have been obvious to one skilled in the art at the time the invention was made to flare the blade tip in the apparatus of Cartledge et al. to give the tip more surface area to spread apart a patient's throat tissue and to stabilize the epiglottis while displacing it anteriorly as taught by Sakamoto (see Col. 2, lines 50-60). The apparatus of Cartledge

et al. and Sakamoto is considered inherently capable of performing the recited method claims.

In regards to claims 4, 14 and 26, Cartledge et al. discloses a laryngoscope blade further comprising: the blade base having a bottom portion, the bottom portion having a channel; and the proximal end of the main blade portion being received in the channel of bottom portion of the blade base, wherein the main blade portion proximate the proximal end does not extend below the bottom portion of the blade base to allow clearance for a patient's teeth during use (see Figs. 2 and 5).

In regards to claim 5, Cartledge et al. discloses a laryngoscope blade, wherein the second tongue displacement plate has a displacement length that is significantly shorter than a length of the main blade (see Figs. 5 and 8).

In regards to claim 6, Cartledge et al. discloses a laryngoscope blade, wherein the first tongue displacement plate extends generally at perpendicular angle from the main blade portion (see Fig. 4).

In regards to claim 7, Cartledge et al. discloses a laryngoscope blade, further comprising: the first tongue displacement plate having a first cutout portion proximate the proximal end of the blade to allow clearance of a patient's top teeth during use (see Figs. 3-5).

In regards to claims 8-9, Cartledge et al. discloses a laryngoscope blade, further comprising: the first tongue displacement plate having a second cut out portion approximate the distal end of the blade (see Figs. 3-5). Sakamoto discloses a blade in a semi-circle (see Fig. 6).

In regards to claims 10 and 16, Cartledge et al. discloses a laryngoscope blade, further comprising: the second tongue displacement plate extending generally at a perpendicular angle from the first tongue displacement plate in a direction away from the main blade portion (see Figs. 3-5 and 8).

In regards to claims 11 and 19, Cartledge et al. discloses a laryngoscope blade 9, wherein the second tongue displacement plate generally extends from the first tongue displacement plate in a direction that is opposite the first direction of the flared blade tip (see Figs. 3-5 and 8).

In regards to claim 12, Cartledge et al. discloses a laryngoscope blade, wherein the second tongue displacement plate and the first tongue displacement plate are generally flat in shape (see Figs. 3-5 and 8).

In regards to claims 15 and 17, Cartledge et al. discloses a laryngoscope blade, wherein the length of the first tongue displacement plate is less than half the length of the main blade portion and wherein the second tongue displacement plate extends from the first tongue displacement plate at generally a perpendicular angle (see Fig. 4).

Response to Arguments

Applicant's arguments filed September 15, 2006 have been fully considered but they are not persuasive.

Applicant states that Cartledge et al. fails to disclose a relative straight blade in combination with a second tongue displacement plate that is extended away from the relatively straight blade. However, Cartledge et al. clearly discloses a main blade 20

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that extends relatively straight in a lateral direction from the handle 30 (see Fig. 1). If the laryngoscope is viewed aurally, it can be seen that the blade is relatively straight between the distal end and the proximal end. Thus, as broadly as claimed, Cartledge et al. meet the limitation of the recited claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJK

12/29/06



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